

### REMARKS

Claims 1-5, 7-12, and 14-24 are pending with entry of this amendment.

Claims 1, 11, 16 and 24 have been amended for clarification purposes.

Claims 6, 13 and 25 have been cancelled without prejudice.

#### **Rejection under 35 U.S.C. § 102(b)**

At pages 2-5, Claims 1-5, 11, 12, 16-18 and 24 were improperly rejected as being anticipated by U.S. Patent No. 5,999,811 to Molne ("Molne").

Claim 1, as amended, recites, *inter alia*, "wherein a one of the plurality of communication schemes is selected and enabled by the processor based on information from a user's smartcard, and wherein said information includes at least a security authorization."

Independent Claims 11, 16 and 24 have also been amended to recite similar elements with regard to Claim 1 above.

In contrast, Molne fails to disclose the recited element above and thus cannot teach selecting and enabling one of a plurality of communication schemes based on information from a user's smartcard that includes at least a security authorization. Rather, Molne is silent with regard to any security authorization. Applicant submits that the amendment to independent Claims 1, 11, 16 and 24 overcomes the Molne reference. Reconsideration

and withdrawal of the rejection of Claims 1, 11, 16 and 24 under 35 U.S.C. § 102(b) are hereby respectfully requested.

Claims 2-5, Claim 12 and Claims 17-18 are dependent upon independent Claims 1, 11 and 16, respectively. Claims 1, 11 and 16 are in condition for allowance. Thus, the claims depending from independent Claims 1, 11 and 16 are patentable at least by virtue of their dependence without need to resort to the additional patentable limitations contained therein. Reconsideration and withdrawal of the rejection of Claims 2-5, 12 and 17-18 under 35 U.S.C. § 102(b) are hereby solicited.

**Rejection under 35 U.S.C. § 103(a)**

At pages 6-7, Claims 6<sup>1</sup> and 13 were improperly rejected as being unpatentable under 35 U.S.C. § 103(a) over Molne in view of U.S. Patent No. 6,631,261 to Farber ("Farber"). The Applicant respectfully disagrees with the Examiner's rejection and asserts the following remarks in response:

In order for the Examiner to establish a *prima facie* case for obviousness, three (3) criteria must be met. First, there must be some suggestion or motivation, either in the cited prior art references or in the knowledge generally available to those of ordinary skill in the art, to modify the primary reference as the Examiner proposes. Second, there must

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<sup>1</sup> The features of Claims 6 and 13 are now incorporated into independent Claims 1 and 11, respectively.

be a reasonable expectation of success in connection with the Examiner's proposed combination of the references. Third, the prior art references must disclose or suggest all of the claimed limitations. *See* MPEP 2143. The Examiner has failed to establish a *prima facie* case for obviousness because the Examiner failed to satisfy his burden of showing that the prior art discloses or suggests all of the claimed limitations of claims 6 and 13 and, as such, failed to satisfy his burden of showing that there is a suggestion or motivation to one of ordinary skill in the art to modify the primary reference as the Examiner proposes.

While Applicant agrees with the Examiner that Molne fails to teach or disclose that information retrieved from the smartcard comprises a security authorization, Applicant submits that Farber supplements the deficiencies of Molne.

For example, Farber discloses a mobile telecommunications system that utilizes authorization to receive programming modules (see column 5, lines 58-60). Applicant submits that Farber does not disclose a security authorization as recited in Claims 6 and 13, the elements of which have been incorporated into independent Claims 1 and 11. Rather than teaching where a one of a plurality of communication schemes is selected and enabled by a processor based on information from a user's smartcard wherein the information includes at least a security authorization, it is clear that Farber's authorization is merely to receive a programming module. This authorization does not

select and/or enable one of a plurality of communication schemes. Rather, Farber's authorization allows a module to be accepted.

Allowance of independent Claims 1 and 11 and those claims dependent thereon is hereby respectfully requested.

**Rejection under 35 U.S.C. § 103(a)**

At pages 7-13, Claims 7-10, 14, 15, 19-21 and 23 were improperly rejected as being unpatentable under 35 U.S.C. § 103(a) over Molne in view of U.S. Patent Application Publication No. 2003050055 to Ting et al. ("Ting").

Claims 7-10 and 14-15 are dependent upon independent Claims 1 and 11. Claims 1 and 11 are in condition for allowance. Thus, the claims depending from independent Claims 1 and 11 are patentable at least by virtue of their dependence without need to resort to the additional patentable limitations contained therein. Reconsideration and withdrawal of the rejection of Claims 7-10 and 14-15 under 35 U.S.C. § 103(a) are hereby solicited.

With regard to independent Claim 19, Applicant submits that the Examiner has failed to establish a *prima facie* case of obviousness when combining Molne with Ting. While Applicant agrees with the Examiner's admission that Molne fails to teach or disclose a programmable IF section and a programmable baseband section, it appears that

the Examiner has failed to meet his burden under § 103(a) showing that Ting supplements the deficiencies of Molne.

For example, Ting is generally directed to a software defined radio architecture for wireless digital communication systems. The architecture includes an RF front-end 602 with an antenna 604, an RF module 606, a digital up-converter or A/D converter 608 and D/A converter 610. Different RF requirements may change the requirements of the RF front-end 602. *See* Paragraph [0039].

While the Examiner alleges that paragraphs [0039] and [0042] of Ting disclose that “the IF section and the baseband sections are programmable”, as recited in claim 19, Applicant cannot find disclosure in these paragraphs much less the entire disclosure of Ting regarding a programmable “IF section” or a programmable “baseband section”. Further, the Examiner also appears to be relying upon Molne to teach its own deficiencies. For example, the Examiner is relying upon Molne to teach an “IF section” and a “baseband section”, and cites column 7, lines 40-64 thereof for support. First, as admitted by the Examiner, Molne fails to disclose a programmable IF section and a programmable baseband section. Thus, Applicant does not understand the Examiner’s assertion that Molne now teaches elements previously admitted absent therein. Not only is Column 7 of Molne silent regarding any type of IF or baseband feature, but the entire

reference is as well, as admitted by the Examiner. Thus, Applicant respectfully requests reconsideration and withdrawal of the rejection of Claim 19.

Claims 20-21 and 23 are dependent upon independent Claim 19. Claim 19 is in condition for allowance. Thus, the claims depending from independent Claim 19 are patentable at least by virtue of their dependence without need to resort to the additional patentable limitations contained therein. Reconsideration and withdrawal of the rejection of Claims 20-21 and 23 under 35 U.S.C. § 103(a) are hereby solicited.

At pages 12-13 of the Office Action, the Examiner rejects Claim 22 under 35 U.S.C. § 103(a) as unpatentable over Molne in view of Ting and further in view of Farber. Claim 22 is dependent upon independent Claim 19. Claim 19 is in condition for allowance. Thus, claims depending from independent Claim 19 are patentable at least by virtue of their dependence without need to resort to the additional patentable limitations contained therein. Reconsideration and withdrawal of the rejection of Claims 22 under 35 U.S.C. § 103(a) are hereby solicited.

At page 13 of the Office Action, the Examiner rejects Claim 25 under 35 U.S.C. § 103(a) as unpatentable over Molne in view of Kolev. Applicant has amended independent Claim 24 to include the additional patentable element discussed above regarding Claim 1. Claim 24 is in condition for allowance. Thus, without addressing the merits of the rejection of Claim 25, claims depending from independent Claim 24 are patentable at least by virtue of their dependence without need to resort to the additional

patentable limitations contained therein. Reconsideration and withdrawal of the rejection of Claim 25 under 35 U.S.C. § 103(a) are hereby solicited.

### CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the application is in condition for allowance. Favorable consideration and prompt allowance are earnestly solicited.

If the Examiner believes that any additional changes would place the application in better condition for allowance, the Examiner is invited to contact the undersigned attorney, Mark C. Comtois, at the telephone number listed below.

Respectfully Submitted

By: 

Mark C. Comtois

Reg. No. 46, 285

D. Joseph English

Reg. No. 42,514

Ryan T. Hardee

Reg. No. 57,515

DUANE MORRIS LLP  
1667 K Street, N.W., Suite 700  
Washington, DC 20006  
Telephone: (202) 776-7800  
Telecopier: (202) 776-7801

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